IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.25589 of 1997

Dated: 25-01-2007

Between:

1. Mohammed Nazeer Ali, s/o late Mohammed Ali,
   aged about 36 years,
   Acting Muthawalli,
   R/o H.No:1-4-836/2, Bolakpur,
   Musheerabad, Hyderabad and another.

... Petitioners

and

1. The State of Andhra Pradesh,
   rep. by its Secretary
   Revenue Department,
   Secretariat Buildings,
   Secretariat,
   Hyderabad and 3 others.

... Respondents

ORDER:

This petition is filed seeking *mandamus* directing the respondents not to cause any kind of aggression or interference in the peaceful possession of petitioners' men

now residing or staying in and over the land of Survey No.47 corresponding to present T.S.No.16. Ward No.73, Block-B in their small shelters and also to restrain respondents from causing any kind of illegal interference in and over the land of Survey No.47 of Daira village admeasuring Ac.3-11 guntas.

2. It is the case of petitioners that the land in an extent of Ac.3-19 guntas in Survey No.47 corresponding to present S.No.16, Ward No.73, Block-B situated in Daira village within Musheerabad Revenue Mandal, Hyderabad District is a wakf property attached to Jame Masjid Qutub Shahi Kalan situated at Musheerabad Road, Hyderabad. According to petitioners, grandfather and father of first petitioner, viz., Kazi Mir Vazeer and Mohd. Ali, respectively, were Muthawallis, one after another and the father of first petitioner died on 01-01-1991. After the death of the father of first petitioner, first petitioner was appointed as acting Muthawalli and the said land is under his management. It is also the case of petitioners that the father of second petitioner was the permanent tenant of the said land and was also granted patta on 10-02-1979 and after his death, the said land is in possession of second petitioner.

3. The grievance of petitioners is that though respondents have no right whatsoever in respect of the land in question, they are trying to evict the petitioners, without adopting any available or known legal procedure.

4. Heard learned counsel for the parties.

5. In fact, in the affidavit filed in support of the writ petition it is clearly mentioned that the said exercise on the part of respondents trying to evict the petitioners, is without initiating any legal action and without following any legal proceedings. This Court, on 16-10-1997 while issuing *Rule nisi*, directed the respondents not to evict the petitioners pending disposal of the writ petition. Though no counter affidavit is filed, learned Government Pleader on instructions submits that the land is in possession of the Life Insurance Corporation of India.

6. The fact remains that the land in which petitioners are in possession was sought to be acquired for the purpose of constructing quarters to the staff of the Life Insurance Corporation of India, but the same cannot be done without recourse to law, as contended by learned counsel for petitioners. Hence, there shall be a direction to respondents to follow due procedure under law before evicting the petitioners, if not already evicted.

6. Accordingly, the writ petition is disposed of. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.25-01-2007
GLV